



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4693

OFFICE OF THE PLANNING BOARD

WEDNESDAY — APRIL 27, 2005 - 7:30 PM
TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED: MARCH 23, 2005

ZBA REFERRALS:

1. **JCW TENT (05-07) - RT. 94 (DRABICK)** Proposed travel trailer sales & rentals.
2. **AMERADA HESS CORP. (05-10) UNION AVE. & RT. 32 (HARPER)** Proposed renovation of existing Dairy-Mart to Hess gas station.

REGULAR ITEMS:

3. **BENEDICT POND SENIOR PROJECT (02-30) MT. AIRY ROAD (DI NARDO)**
Proposed 120-Unit Senior Housing Project.
4. **BENEDICT POND, SATTERLY & MC CASTER L L CHG (04-35) RILEY RD**
Proposed residential lot line change for easements for Benedict Pond SP. (DI NARDO)

REAPPROVAL:

5. **CENTRAL VALLEY REAL ESTATE (04-11) 3062 RT. 9W – (COPPOLA)**
Proposed two-story office building previously approved 7-14-04.

DISCUSSION:

6. **J & R EQUIPMENT (FALANGA/PLOTKIN) SITE PLAN AND SPECIAL PERMIT – SOIL OPERATION ON RIVER ROAD**

ADJOURNMENT

(NEXT MEETING – MAY 11, 2005)



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4693

OFFICE OF THE PLANNING BOARD

WEDNESDAY — APRIL 27, 2005 - 7:30 PM
TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED: MARCH 23, 2005

ZBA REFERRALS:

1. **JCW TENT (05-07) - RT. 94 (DRABICK)** Proposed travel trailer sales & rentals.
2. **AMERADA HESS CORP. (05-10) UNION AVE. & RT. 32 (HARPER)** Proposed renovation of existing Dairy-Mart to Hess gas station.

REGULAR ITEMS:

3. **BENEDICT POND SENIOR PROJECT (02-30) MT. AIRY ROAD (DI NARDO)**
Proposed 120-Unit Senior Housing Project.
4. **BENEDICT POND, SATTERLY & MC CASTER L L CHG (04-35) RILEY RD**
Proposed residential lot line change for easements for Benedict Pond SP. (DI NARDO)

DISCUSSION

5. **J & R EQUIPMENT (FALANGA/PLOTKIN) SITE PLAN AND SPECIAL PERMIT – SOIL OPERATION ON RIVER ROAD**

ADJOURNMENT

(NEXT MEETING – MAY 11, 2005)

April 27, 2005

1

TOWN OF NEW WINDSOR

PLANNING BOARD

APRIL 27, 2005

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN
NEIL SCHLESINGER
JERRY ARGENIO
ERIC MASON
DANIEL GALLAGHER

ALTERNATE: JOSEPH MINUTA

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

MYRA MASON
PLANNING BOARD SECRETARY

ABSENT: THOMAS KARNAVEZOS

REGULAR MEETING

MR. PETRO: I'd like the call to order the April 27, 2005 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

APPROVAL OF MINUTES DATED: MARCH 23, 2005

MR. PETRO: Motion to approve the minutes dated March 23, 2005.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the minutes of the March 23, 2005 meeting be accepted.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE
MR. SCHLESINGER	AYE
MR. PETRO	AYE

ZBA REFERRALS:

JCW TENT (05-07)

MR. PETRO: JCW tent, proposed travel trailer sales and rentals. Application proposes rental/sales, camper use with a caretaker apartment. Plan was reviewed on a concept basis only. Project is located in a C zoning district of the Town. Recreational vehicle/home sales is a permitted use for the zone and the caretaker apartment use is a special use permit number 5 in the zone which means they would require a special use permit from this board. Required bulk information on the plan is correct with the exception of the permitted height based on the nearest lot line thereby permitting 2.8 feet. It's one hell of a building. The application requires a variance for lot area of the use A-9 use and has four pre-existing, non-conforming easings, a referral to the ZBA is necessary. Once the applicant goes to the ZBA to continue he will continue here. I see Mr. Drabick's not here, you're going to represent it yourself? Sir?

MR. FAIRLEY: I'm representing my wife.

MR. PETRO: Can you come forward and state your name?

MR. FAIRLEY: Chuck Fairley and Jacqueline is the owner of the property and the owner of JCW.

MR. PETRO: We have a proxy on file for Mr. Fairley. Do you have a plan?

MR. FAIRLEY: Yes.

MR. PETRO: You can set your plan on the board and we're going to get our plans out. This is across from West Point Tours in a single family home?

MR. FAIRLEY: That's correct.

MR. PETRO: Next to Price Chopper?

MR. FAIRLEY: Correct.

MR. PETRO: Is there any activity in the house at this time?

MR. FAIRLEY: Well, we're residing in it at this point, yes.

MR. PETRO: You realize that you're not supposed to be residing there because you need a special use permit by this board?

MR. FAIRLEY: I'm not too sure how that works because when we bought the property, we had to go ahead and file and ask the Town for a C.O. They said a C.O. wasn't necessary, the house was built in 1940 or some other such thing, we got the usual waiver or whatever it is that you call it.

MR. PETRO: Okay, well, if the house is, let me speak, if the house is vacant for two years or more which I believe it was.

MR. FAIRLEY: Here again, this is in dispute not with the Town but with the people who had it before, S & J owned the property before, they bought the property sometime I think in 1997 or thereabouts and they were using it as a residence for Shop Rite people who were working in Shop Rite so I'm not too sure what the arrangement is with the Town or was with the Town at that time but this is what my understanding was.

MR. PETRO: Okay, the way we're going to review it the building inspector said that his department claims and fire department claims that it was empty for more than two years so a special use permit would be required for you, any residence there I'm going to look at it

because I have to go by--

MR. FAIRLEY: The other thing if I may because of my own profession because which is business consultant it was my understanding that if it wasn't regarded as a residence because I would have an office there which I'm giving up for the retail establishment it was my understanding that as a business consultant if we resided there and maintained the office which I did do that it fell within the commercial jurisdiction.

MR. PETRO: You're saying home office use? Mike?

MR. BABCOCK: No.

MR. FAIRLEY: I don't know.

MR. BABCOCK: That's not the way it works. It's a single family residential dwelling and it lost its non-conformity in a C zone because it was vacant for a period of time. I don't know whether it was two, three or four or six years but it's been vacant for a number of years. To re-establish that he's going to need either a special use permit from this board for a caretakers apartment or a use variance from the zoning board. Right now what he's wanting to apply for is for a commercial operation with a caretaker's apartment, that's what he's applying for.

MR. PETRO: Then he needs a special use permit by this board for a caretaker's apartment.

MR. BABCOCK: That's correct.

MR. PETRO: That's the point.

MR. FAIRLEY: Okay.

MR. PETRO: Tell us what you want to do there then we'll get to it.

MR. FAIRLEY: Basically as I say it's my wife's property, she's the owner, I'm not even on the title. What she wants do is operate a small recreational vehicle business which consists primarily of renting and selling tent trailers for I think most of us are familiar somewhat with tent trailers, a pop-up campers, whatever it is you want to call it, what she wants to do is have space for eight trailers back here for rental, she's not going to--

MR. PETRO: Eight trailers for what?

MR. FAIRLEY: Leasing and rental purpose and demo purposes, she'll be dealing directly with Palomino and Viking who are manufacturers in terms of selling the trailers for them, but she'll only have the rental units on the property. People who want to buy the units will be able to see the rental units and this will also serve as demo units for her. And she'll order directly from the factory for people who want to buy them so there will be no for all practical purposes repairs or anything of this sort, strictly a leasing or rental sales operation. She wants a carport over here in order to prep the vehicles, the trailers and basically that's it. The office is within the house. Now we had a discussion as you know with Mark Edsall and some of the others in terms of the office use, the office can be made to comply with the ordinances of the Town for retail space. The only difficulty we had was with the bathroom, I think because of handicapped restrictions and so forth the bathroom had to be at least an 8 x 8, the bathroom was a 10 x 6, I believe, therefore, this necessitated us adding or bumping out where the bathroom is an extra 3 feet in order to get that 8 x 8, actually, it will exceed it. The other requirement was that we have to have a ramp and as much as my mother-in-law was also handicapped will be living with us from time to time, the ramp was not a problem, we had to put that in anyway if we were going to reside

there.

MR. PETRO: I see everything in the back of the property, nothing in the front?

MR. FAIRLEY: Right, nothing up front.

MR. PETRO: Mike, I have a question here, the curb cut that goes out to 94, it looks like it loops around the house, number one, it loops around?

MR. BABCOCK: Yes.

MR. PETRO: One's not over the property line, does it go over the property line? I see the one to the north.

MR. BABCOCK: The curb stops over the property line, I'm not sure whether they're his or the neighboring one, I just talked to Mark about the need to get DOT approval for changing from residential to commercial.

MR. PETRO: That's my next question, isn't this a residential curb cut?

MR. BABCOCK: Yes, he'll have to get a blessing from them for both those curb cuts.

MR. PETRO: I can tell you right now--

MR. FAIRLEY: May I interject at this point? I talked to DOT because I wanted a 40 foot curb cut over here for entrance, they said no, the most you could have is a 25 foot. I explained that we're residential, we want to do a limited commercial enterprise here, they said regardless of what you want to do, you're not going to get more than 25. Over here they also said something to the effect that we did not think that you would be able to.

MR. PETRO: You're not going to loop it off, they're

going to cut one off for sure, that's not even a question.

MR. FAIRLEY: All right, we would go over and eliminate this as egress entrance, this part of it.

MR. PETRO: This plan won't stand because they're going to cut that off, you'll never have access at both points.

MR. FAIRLEY: We'll eliminate and just use it for parking purposes, that's why you see signs and everything else designated on the plot plan saying don't park or whatever.

MR. PETRO: You're here tonight because you need a variance, you need a referral to the zoning board. Normally, I don't take this long, I just send you but I'm concerned with this use on the property frankly because it's a high impact use. You're saying there's only eight or ten trailers but once you're there everybody forgets everything, you wind up with 60 or 70. The other thing is I'm not sure, I don't want to waste your time and effort either how this board is going to receive this if you're successful at receiving your variances which would be questionable then you would be back here again, like I said, for the special use permit for the apartment which in itself is not really a problem. I think the use of the property is a bigger problem. It's a permitted use in the zone, Mark, you're telling me?

MR. EDSALL: Yes, it is.

MR. PETRO: You realize you have to go to DOT for your permit, it's a long drawn out affair, it's not something that's going to happen in a short period of time.

MR. BABCOCK: Jim, we'll send once we get a plan that

this board likes we'll send that plan to DOT ourselves even and get a referral back from them.

MR. PETRO: This plan is not going to work.

MR. BABCOCK: This is the first time in, once this board likes the plan then we'll send it to DOT.

MR. PETRO: You're going to have to change the curb cut also probably the curbing on here probably no 8 inch concrete curbing, probably just a, if there's any at all. Is there any curbing?

MR. BABCOCK: No, I don't think there's any curbing at all.

MR. PETRO: You're not going to see anything from the front of the building is what you're saying, everything is in the back of the property and the property is one and a half acres approximately?

MR. FAIRLEY: That's right.

MR. PETRO: What variance is he going for, Mark?

MR. EDSALL: Area variance. The A-9 use which is the recreational vehicle requires 80,000 square foot and they have that 62,000.

MR. PETRO: You're looking for a relief of the law when you go get the variance, there's a reason it's 80,000 square feet because they're telling you the law is stating that this property is not big enough for the use that you want. Do you understand what I'm saying?

MR. FAIRLEY: Yeah.

MR. PETRO: You're looking for relief of the law because you're approximately 25 percent less than what the law requires. I'm speaking on behalf of the zoning

board, that's the reason you're going for the variance, then the planning board has to ask itself well why would we want something that's written in law that's too big for the property on that site. The law's already saying it, I'm not saying it, he's not saying it, the law states 80,000, you have 62,000, so when you go to the zoning board, the board may or may not this board give you a positive or negative recommendation. Do you understand that?

MR. FAIRLEY: I think what I was really getting at the first off I understand what you're saying in terms of our reasons, big rigs, yes, but this is a limited operation, it is essentially a mom and pop operation, we're talking about 10 trailers when they're expanded they're no more than 18 feet long, we're not talking about travel trailers.

MR. PETRO: I know where you're going, nine out of ten people do not know what I'm about to tell you, when you go to the zoning board and you get a variance that variance is not going to you and your wife, it's going to that parcel of property and the section, block and lot number, therefore, if you sell it the morning after the variance whoever comes in there has the same variance that's allowing camper sales, tent sales, it goes with the property, not to you. You have nothing to do with it at all. All you're going to do is pay the bills to do it so therefore, when I go there and I see the use of camper and tent sales, I could have an 80 foot trailer and be selling it because that's what I'm doing. You have to be careful when you say what you're doing, it's not necessarily important what you're doing.

MR. FAIRLEY: If I may, I don't want to be argumentative, I want some kind of understanding here in terms of limited use special permits and so forth, when I dealt with Planning Boards in the past, for instances, Fishkill, if we said that we wanted to do

something special pertaining to a particular type of operation they would say how long do you anticipate this operation to go on, I would say four years, five years, whatever it is and they would say okay for this particular operation, you have to renew it every two years or something of the sort for a period of five years so in light of what you're saying I'm asking if we can have the same type of situation in here, in other words, this would mitigate against anybody coming in and saying well you got big rigs, we're going to have big rigs because that's designated for RVs, I'm saying if you give us a special use permit not only for the use of the--

MR. PETRO: We're not going to, once you have the permits from the zoning board will give you relief of the law, you'll have a variance. The only permit this board would allow would be the special use permit for the apartment, has nothing to do with regulating the use of the property, so whether or not the zoning board would put a note on the plan stipulating a time period that it's good for, I haven't seen that, there's no way really to enforce it because once you're there, I'm out of office, everybody moves on and nobody knows what's going on, nobody's going to remember, there's a note on the plan that you have an 80 foot trailer in there, I wouldn't go for something like that myself, if I were on the zoning board. And Mark, I don't know that we do that.

MR. EDSALL: No, you're absolutely correct. The underlying use of the recreational vehicles is not part of the special permit. So you can't use the special permit provisions to control that aspect. It only has to do with the caretaker apartment so you're right on target. One other point just so you're aware when it comes back if they're successful with the ZBA, this is adjoining the National Temple Hill Association, that site is a historic property, it's going to need, this will need to be referred to the New York State Office

of Parks, Recreation, Historic Preservation who very well may have some concern and may suggest restrictions relative to the use because although the viewshed from the front wouldn't be impacted the way they're proposing it, it clearly is in direct line of the historic site next door.

MR. ARGENIO: How far to the west does the historic corridor go?

MR. EDSALL: I'm not sure.

MR. ARGENIO: It's not relevant to the application but I was thinking about its proximity to the Cantonment.

MR. PETRO: They're right up against it.

MR. EDSALL: I believe the historic corridor is on 300 but the site next door, directly adjacent site is a historic site.

MR. PETRO: We're not going to settle anything here, by law I have to refer you to the zoning board for your necessary variances. I think that you have a very high impact use for this piece of property. There would be no way that this board would give a positive recommendation for it, matter of fact, I think a negative recommendation is in order and what Mark's trying to say is that if you acquire your variances and appear back before this board between DOT with the permitting, the National Association, Historic Association, you have a long uphill battle. So maybe give us some other thought for a different use to the property. I'm just giving this as an opinion, you don't have to, you can say forget it, I'm going to go to the zoning board, do what I want, unless any of the members here feels that I'm out of line, we would not give you a positive recommendation. The law states you need 80,000 square feet, you have 62, I believe it's the intent there was even though it's a commercial zone

to me it looks like a one-family house. Is that what it is on the books for now is a one family, what is it on the books for now?

MR. BABCOCK: It's on the tax roll as one family residential but it's lost that use based on the vacancy.

MR. PETRO: Now your use by right is permitted, I'm not saying it's not, I just think that in this particular area being you don't have the area that you need, you have the historic on the west side and I grew up up and down this road and I've never seen a commercial business there, so I think you just have a long road to hoe. The DOT the, historical and back to zoning board and planning board both.

MR. EDSALL: Mr. Chairman, the zoning does allow a professional business to occupy that site and I believe that use would not have the same visual impacts and as well I don't believe it would require any variances. So when the zoning board reviews this clearly they're going to look and weigh the fact that there are other uses allowed in the zone that would not require a variance.

MR. PETRO: Do you understand what he's saying?

MR. FAIRLEY: No.

MR. PETRO: This property and building lends itself to other uses that's permitted in that zone with not this kind of impact and not require any variances, therefore, you should look at that type of use. You're also going to a zoning board for an area variance, when you have needs, to have a hardship you need to have some sort of hardship to get these variances, you can't say well, I bought it, I want to make money there and hook up these trailers, you can't self-impose your own hardship, you bought it knowing and understanding that

you have to go for a zoning change, you can't impose your own hardship.

MR. FAIRLEY: I did not buy it with the understanding that I had to go for a zoning change, we bought it as a residence because this is what we were led to believe.

MR. PETRO: I don't see it being a problem as a residence, you can say never mind, Mr. Petro, tonight forget the trailers, we want to continue with the special use permit for the apartment, that would not be a problem, schedule a public hearing which is mandatory by law for special use permit. I don't see anybody opposing that, that's not going to be your headache. Your headache is the use of the property, it doesn't fit on the 62,000 feet, you're self-imposing the hardship and going to a zoning board looking for relief, I'm going to still send you there, you can take your luck, go there and see what happens. I'm telling you when you come back there's going to be another hurdle here with all the planning board issues again, i.e., the DOT, you're going to have a reconfiguration of the driveway, they're not going to accept it, they're not going to give you two curb cuts there and the other one is the historical association, we have to contact them, it's going to go to Orange County Planning Department, by law everything since what, January 1st?

MR. EDSALL: September last year.

MR. PETRO: So it's an uphill climb, I'm not saying it's impossible, I doubt it, you're going to zoning board without a positive recommendation and that's it. Do you have any closing statement? Did anybody disagree with me?

MR. ARGENIO: I don't.

MR. SCHLESINGER: No.

MR. PETRO: Or disagree with any part of this?

MR. FAIRLEY: Okay, one of the questions that I do have to ask at this point and this pertains to Mr. Babcock's statement at this point it would seem that we shouldn't even be there and I'm going to raise this somewhat because if I have to go to the zoning board I think aside from getting a situation for a, what did you call it, a special use permit, how does this tie in, for instance, if I say okay, I agree with you perhaps going for the tent trailer situation is not the best approach at this point but I do want to go ahead and still maintain my office there and my residence there.

MR. PETRO: I think that's what Mark said, if you do a lighter use that's a permitted use in the zone, I don't think you'll have a problem, you may not even need the zoning board.

MR. BABCOCK: He doesn't.

MR. EDSALL: He needs site plan approval but it would be--

MR. BABCOCK: Site plan approval plus special permit for the caretaker.

MR. PETRO: That's not a problem, when you're putting trailers and the sales of the trailers and/or rentals it's just triggering a major setback and frankly, I don't see it's going to happen. So why don't you rethink your plan, rethink your position, when you're ready, you'll be back on this agenda or I can send you directly to zoning, I would suggest that you rethink it and apply here again, if you don't need zoning, I'll put you on the agenda and look at just the apartment and your office, if you need that, why don't you give that some thought instead of sending you to zoning for no reason.

April 27, 2005

16

MR. FAIRLEY: Sounds good.

MR. PETRO: You're living in the residence?

MR. FAIRLEY: Yes.

MR. PETRO: We'll consider that you're actively pursuing an application and allow you to continue as long as you're here, if you don't show up for three or four or five weeks, Mr. Babcock is going to have to give you a stop work order and you have to vacate the premises.

MR. FAIRLEY: Sounds good.

MR. PETRO: Thank you.

AMERADA HESS CORP. (05-10)

MR. PETRO: Proposed renovation of existing Dairy Mart to Hess Gas Station. Mark, when you say renovation, it's my understanding they're ripping the whole thing down, why is it a renovation? It's one hell of a renovation.

MR. EDSALL: It's a big one.

MR. PETRO: About as big as you can get.

MR. EDSALL: Other than digging out the site as well.

MR. PETRO: Application proposes redevelopment of the the DB Mart site to continue the use as retail and gasoline fuel sales. The plan is reviewed on a concept basis only, NC zone, gasoline station use is a special use permit, B-7 of the zone, are they going to have to go back, it hasn't lost that use yet?

MR. EDSALL: No.

MR. PETRO: Right now the special use permit is still valid?

MR. EDSALL: It is effectively it's my belief that the special permit is continuing that they're coming in for a site plan change cause they're re-orienting the layout.

MR. PETRO: Okay so right now we don't need zoning for the use, we may need zoning for something else but not the use.

MR. EDSALL: They need zoning board because of again some area variances, setback, because of the reconfiguration.

MR. PETRO: But the use is still permitted.

MR. EDSALL: Use is fine.

MR. PETRO: Okay, why don't you give us a little show just for the record.

MR. ALEXANDER: My name is Neil Alexander, I'm a partner in the law firm of Cuddy & Feder. With me here tonight as well is Mr. Harper who you referenced from Morris Associates and Mr. Lautenbacher (phonetic) from Amerada Hess.

MR. PETRO: Are you guys making some money these days or not? You all right? We don't want to worry about it.

MR. ALEXANDER: We know you're all familiar with this DB Mart, Hess is looking to build approximately a 3,500 square foot building here. We've been working closely not only with the County but with Mr. Edsall's office and we have come up with a plan that reconfigures the site quite a bit and enables us to close one of the existing curb cuts. So that way we'll leave one curb cut on the 69 side and two on the Route 32 site. Because of that and a few other reasons what winds up happening the building winds up approximately 7 feet back from the rear property line. Hess has already committed to whatever fencing or vegetation as well as finishing all four sides of the building in order to ameliorate that issue, I know I'm going to have to make this case over at the ZBA, I'm just enlightening you quickly. The other variance has to do with signage on the building facade itself and the third variance has to do with the number of parking spaces. Essentially your code does not give credit for the fact that we're only going to have 12 pumping stations and when a person pumps gas and goes in, they don't move their car into a parking space, that's where we're under on parking but from a utilization standpoint, we have plenty. I'm just laying out to you the three variances

that we're seeking.

MR. PETRO: Mark told me one of the variances rear yard was you really didn't need to have the building setback so far but the DOT wanted the other curb cut close, is that true?

MR. ALEXANDER: That's accurate.

MR. EDSALL: County DPW.

MR. PETRO: County, I'm sorry, so you moved it back further so you can keep the other one open or both closed?

MR. ALEXANDER: We're creating an area to have parking on, we're increasing the parking, parking options and circulation and removing the stacking, traffic light here, there's a queuing and stacking issue with regard to the existing--

MR. PETRO: That one I can see.

MR. ALEXANDER: We're closing it up in order to fix that queuing issue, that way people here can get through here and then there's no conflict between people trying to come out here with the queuing that's occurring.

MR. PETRO: You're going to need a height variance.

MR. ALEXANDER: I don't believe we will.

MR. PETRO: So many feet off the property line, you're only 7 feet off, they're going to need a height variance.

MR. EDSALL: I'll check.

MR. ALEXANDER: That hadn't come up previously.

MR. PETRO: Why wouldn't you if you're 7 feet off?

MR. EDSALL: Because particularly this use in the zone the height is not based on the setback, it's one of the cases where specific height provided 23 feet, so you could build a 23 foot building one foot off the property as long as you got a variance to build it.

MR. ARGENIO: All you need is the horizontal setback from the property line as long as you're not taller than 23 feet.

MR. BABCOCK: That's correct.

MR. EDSALL: Correct.

MR. PETRO: Are you done with your presentation?

MR. ALEXANDER: As long as you don't need to hear from me further, I'm done.

MR. PETRO: Any questions you want to ask him?

MR. EDSALL: Just to expand on the issue of the curb cut independently the Orange County Department of Public Works and our review both push the applicant to close that one driveway because of conflicts with the queuing and vehicles entering and exiting, it was a safety issue, so they provided just so the record is clear various alternatives at the workshop, many of which got shot down because they didn't correct the safety issue. So they're here reacting to what the County and our office suggested.

MR. ARGENIO: I think it should be closed, Mark, in my opinion.

MR. EDSALL: It's a trend and it's a safety issue that's paramount.

MR. PETRO: What you're really saying when they go to zoning board, the zoning board should know that this rear yard setback of 7 feet is really because of information that you wanted and Orange County--

MR. ARGENIO: To close the curb cut.

MR. EDSALL: Correct, this was not their original plan.

MR. PETRO: Now it's in the minutes and they can read it. What other variance?

MR. EDSALL: They had sign variance for facade sign, they had the setback variance and parking variance because come up short and the code does not allow them to take credit or partial credit for the spaces under the parking or the canopy for the pumping islands.

MR. PETRO: No credit for that at all?

MR. EDSALL: None.

MR. SCHLESINGER: What's the requirement on the parking?

MR. EDSALL: How many?

MR. ALEXANDER: We're four short, requirement would be 24 and we have 20 plus we have 12 under the canopy so we have 32, however, if you want to give us full credit.

MR. SCHLESINGER: Short four technically?

MR. ALEXANDER: Correct.

MR. PETRO: What we're going to do is we're not going to waste our time and yours tonight because we'll send you for the variance and if you're successful you'll

come back and start with the site plan. There's no sense going over it if you're not successful.

MR. ARGENIO: I'll make a motion for approval of Amerada Hess Corp. site plan.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Amerada Hess site plan on Route 94 and Union Avenue. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	NO
MR. GALLAGHER	NO
MR. ARGENIO	NO
MR. SCHLESINGER	NO
MR. PETRO	NO

MR. PETRO: At this time, you have been referred to the New Windsor Zoning Board for your necessary variances. If you're successful and receive those variances, you can then apply to this board to move on with the planning board.

MR. ALEXANDER: We're being sent with just a neutral?

MR. PETRO: Yeah, just whatever they decide, you have a somewhat a positive because coming from our engineer that you're really meeting his request, that's why the rear yard setback is what it is, make sure that the zoning board findings are put on the plan before you reappear before this board.

MR. ALEXANDER: Thank you.

REGULAR ITEMS:

BENEDICT POND SENIOR PROJECT (02-30)

Robert DiNardo, Esq., Mr. Tony Danza and Mr. Al Zeppone appeared before the board for this proposal.

MR. PETRO: Application involves development of 52.5 acre parcel into a 120 unit age-restricted multi-family development, total of 35 plus buildings. The plan was previously reviewed at the 9 October, 2002, 14 May, 2003, 23 July, 2003, 8 October, 2003, 8 December, 2004 planning board meetings. Who says we move things right along? R-3 zone district of the Town, senior housing age-restricted project is special permit use 8 in the zone. Applications and plans have gone through numerous revisions and refinements, most especially the storm water pollution prevention plan for the project. Applicant is seeking conditional final approval at this meeting. Have you heard back from Orange County Planning Department and/or Board of Health?

MR. DINARDO: We heard from the Health Department in February, they had some minor comments, we submitted revisions in February. Al?

MR. ZEPPONE: Beginning of February.

MR. DINARDO: They indicated the turnaround time would be about eight weeks.

MR. PETRO: Let me rephrase my question. Do you have approval from Orange County Department of Health?

MR. DINARDO: No, sir.

MR. PETRO: Planning Department?

MR. EDSALL: Planning they're not required to get because they had the application active before the

September law changed.

MR. PETRO: All right, let me read some of these notes. Did you get a copy of Mark's notes?

MR. DINARDO: Yes.

MR. PETRO: Mr. DiNardo, usually when we see this much stuff you know what I do, I usually close it up and ask you to come back again, but you have been here so many times, I don't want to do that because I want to accomplish something tonight but this is just too many items, I don't know why there's so many. Did you go to a workshop prior to this meeting?

MR. DINARDO: Yes, yes and I'll defer to Mr. Edsall but I don't think the number is indicative of a condition which would prevent conditional final but as I say, I'll defer to Mr. Edsall. I thought, for example, I thought we had received a positive reaction to the storm water pollution prevention plan from Mr. Edsall's office and I see that there's a request for an operation and maintenance plan relating to, but I thought we were largely passed that issue.

MR. PETRO: Listen, I'm not going to do conditional final approval tonight, it's too much but is there something that you want to talk about specifically so we can move you along somewhere?

MR. DINARDO: Give us a moment to go through these.

MR. ARGENIO: Mark, I'm just reading through the bullets, provide additional information regarding emergency access from Route 94 as previously requested, what does that mean, not as previously requested, what does the whole comment mean?

MR. EDSALL: There was an emergency access from Route 94 that we had asked to demonstrate that there's an

easement, they have legal right to use it.

MR. ARGENIO: Property ownership issue associated with that emergency access?

MR. EDSALL: Details for what construction because the fire inspector had asked is it going to be such that we can drive on it with our heavy equipment.

MR. ARGENIO: What the final surface is.

MR. EDSALL: None of these comments are new. I had one of our guys go through and admittedly it's a large project so in comparison to a small project there are a lot of details.

MR. PETRO: I don't want to--

MR. EDSALL: These are not new comments.

MR. PETRO: I don't want to be rude, I know it's a large project, it's easy to miss something, just for instance, correct layout of the handicapped parking spaces at the clubhouse, they do not comply with state standards, that's something we've been looking at it for three years, why isn't that correct? It should have been done a long time ago. Provide a sidewalk on the east side of Benedict Lane, opposite the parking area connecting to the sidewalk to the clubhouse, just to me when I read it, it shouldn't be on the sheet, you do have some, maybe half of these things are just stuff that we can work with and take care of, it's not a problem, just technical but certain things need to be on the plan and have it done properly.

MR. DINARDO: Just if I can ask one question, the last bullet talks about the planning board requiring a bond estimate, I assume you want us to take off on that?

MR. EDSALL: That's always a condition so that's the

last thing you'll do.

MR. PETRO: I don't want you to think we're not working with you, but I would say 60 percent of these bullets the first words are as previously requested.

MR. DANZA: May I ask that if we're not going to get a decision tonight on final we'll work with Mark and we'll get it done and come back but there's also an issue of subdivision, minor subdivision.

MR. DINARDO: The next item, it's on your agenda.

MR. PETRO: It's coming up.

MR. DANZA: Can we get that done tonight?

MR. PETRO: It's possible this may not have an affect on that, you certainly can subdivide your property and not have a bearing on this.

MR. EDSALL: It's just the lot line change.

MR. PETRO: I don't think it has a bearing.

MR. DANZA: At least I can get that done, my instruction to the engineer is to sit down with Mark.

MR. PETRO: I'm not trying to bargain with you, I just want you to know as I said most of these things start with as previously requested, so take it outside and straighten it out, I guess. Okay?

MR. BABCOCK: Jim, they need Orange County Health Department approval anyway so that's something that so they can work these details out while that happens.

MR. DINARDO: Okay, are there any comments on the next, on the subdivision? There's a relationship we need to complete the subdivision in order to complete some of

the details on the water.

MR. EDSALL: There's, no, well, Mr. Chairman, when you move on to the next item, I'll comment on that.

MR. PETRO: Yeah, let me get to it.

BENEDICT POND, SATTERLY & MC CASTER LOT LINE CHANGE
(04-35)

Robert DiNardo, Esq., Mr. Tony Danza and Mr. Andrew Atzel appeared before the board for this proposal.

MR. PETRO: Next is Benedict Pond, Satterly & McCaster lot line change, proposed residential lot line change for easements for Benedict Pond subdivision represented by DiNardo. Tell us briefly what you're doing here.

MR. ATZEL: Basically, what we're trying to do is create a water easement where the, and also alleviate this little dogleg that ran out to I guess it's Riley Road and just eliminate that. In doing so we will be able to clean up some of the odd shaped lot lines and square up the end of the property, it doesn't affect the site plan for the remaining portion that's all over in here and it doesn't, we're way down in this little back portion here, if you take a look at the plans.

MR. PETRO: No non-conformities will result from the application, no zoning issues arising from this application, existing encroachment of the Satterly building onto the lands of McCaster would suggest for the applicants to try and resolve that problem. Was any attempt made?

MR. DANZA: Yes.

MR. PETRO: And?

MR. DINARDO: That's a go ahead. I think that's the purpose of the subdivision.

MR. ATZEL: The subdivision does create a new lot line for this, there's no way for us to alleviate this problem along the building line cause we don't own that property, this is property of Ruffas McCaster, I guess, so we can't alleviate that encroachment.

MR. DANZA: We did alleviate it on Mr. Satterly's building.

MR. PETRO: Have you contacted him?

MR. DANZA: Contacted both of them, we are exchanging property with both of them and that's basically what this subdivision does, it's a lot line change that alleviates the problem with the Satterly property, now the building is totally on his property.

MR. PETRO: Totally on his property but what about the setback?

MR. EDSALL: No, my concern was as long as the encroachment is being corrected as part of what you're doing to create the easements so the new line will create that building being totally on the correct parcel.

MR. DANZA: Totally on Mr. Satterly's property?

MR. EDSALL: The answer is yes, cut to the chase, they have resolved it.

MR. PETRO: Planning board may wish to assume position of lead agency. Entertain a motion.

MR. ARGENIO: I'll make the motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Benedict Pond LLC Satterly & McCaster lot line change off Riley Road. Any discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE
MR. SCHLESINGER	AYE
MR. PETRO	AYE

MR. PETRO: Planning board should determine if a public hearing will be necessary for minor subdivision in the form of a lot line change or same can be waived under discretionary judgment. Any board members have any comments on that?

MR. ARGENIO: I think it's minor in nature, Mr. Chairman.

MR. PETRO: I think we're moving forward to correct non-conforming uses and straighten out the crazy lot lines, I've never seen such crazy lot lines.

MR. ARGENIO: They're all over the place.

MR. DANZA: The long dogleg coming down to 94 was used to bring wagons, horse and wagons used to come down, hit Riley and down to 94, that's now Mr. Satterly's property, cut right through his property all those years.

MR. PETRO: But still the necessity here is that we're getting one building off that's encroaching on another parcel straightened out.

MR. DANZA: We are and tie a complete loop.

MR. PETRO: Form of a motion?

MR. ARGENIO: I'll make the motion we waive the public hearing for Benedict Pond LLC.

MR. SCHLESINGER: Lot line change. Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board waive the public hearing under its discretionary judgment for the Benedict Pond, Satterly & McCaster lot line change. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE
MR. SCHLESINGER	AYE
MR. PETRO	AYE

MR. PETRO: Planning board may wish to determine the type of action under SEQRA process. I don't think that we're making much of an impact here by moving that line.

MR. ARGENIO: I agree.

MR. PETRO: Entertain a motion.

MR. ARGENIO: Motion for negative dec for Benedict Pond, Satterly & McCaster lot line change.

MR. SCHLESINGER: Second it.

MR. PETRO: Motioned has been made and seconded that the New Windsor Planning Board declare a negative dec under the SEQRA process for the Benedict Pond LLC Satterly & McCaster lot line change off Riley Road. Any further discussion? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. SCHLESINGER AYE
MR. PETRO AYE

MR. PETRO: As previously noted, the easements shown on the plan are intended as future easements to the benefit of the Town of New Windsor, as any approval, this lot line change should be subject to review and approval of the easements by the attorney of the Town. So what we're going to do is unless Mark can tell me some reason why we can't, let's give them final approval. If Mr. Crotty has a problem, he can contact the applicant or I won't sign the plan.

MR. EDSALL: I would make that a condition. The other I will ask again that they make the plan, the lines clear enough so that we can tell that the new lot line is on that far side of the building.

MR. ATZEL: I'm going to be--

MR. ARGENIO: You don't think it's clear because it's a dashed line?

MR. EDSALL: No, no, the dashed lines are the lines that are, some of them are easements, some of them are lines being deleted. We should have a line weight and they're drawing exactly what I'm asking for so make that a condition, we'll make sure it's right before it's stamped.

MR. ARGENIO: You're very thorough, Mr. Engineer.

MR. EDSALL: I try.

MR. PETRO: Motion for final approval.

MR. ARGENIO: Motion for final approval subject to the corrections that Mark just outlined and Phil Crotty's review over the next 30 days.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Benedict Pond, Satterly & McCaster lot line change off Riley Road with the subject-tos that Mr. Argenio just spoke of. Do you understand that Mr. Crotty has to review it?

MR. DINARDO: I sent him the easements a few months ago, he had no problem with them, he thought the planning board should act first.

MR. PETRO: Okay and you're going to straighten out the lines?

MR. DANZA: Yes.

REAPPROVAL:

CENTRAL VALLEY REAL ESTATE (04-11)

MR. PETRO: Reapproval Central Valley Real Estate. "Please accept this letter as a request to reapprove our previous conditional approval for this site plan application on 3062 Route 9W. Last July, 2004, the planning board granted conditional approval to the site plan subject to DOT review and approval. It has taken us eight months to receive an approval letter from the resident engineer. Thank you, Mr. Cappola." Evidently, they had an approval that ran out in January is my understanding of this, it ran out in January so we were doing a reapproval.

MR. BABCOCK: Yes.

MR. EDSALL: They didn't ask for an extension. Had they asked for one, it wouldn't have expired.

MR. PETRO: So has anything changed under any zoning laws, Mark, any reason that we cannot do a reapproval of this?

MR. EDSALL: No. In fact, just one correction that they one of the previous conditions was that this document, that one of the pre-existing setbacks that they showed really existed. When we got the survey, we found out that it really wasn't what they thought it was, so they had to make the building slightly smaller.

MR. PETRO: Smaller's okay.

MR. ARGENIO: Smaller's better.

MR. EDSALL: That's what happened.

MR. PETRO: How about additional fees, did he pay them?

MR. EDSALL: Reapproval fee.

MR. SCHLESINGER: They submitted corrected plans?

MR. EDSALL: Yes. We can check the plans before they're stamped.

MR. PETRO: Anybody have a problem with entertaining a motion for the reapproval? For how long a period, one year?

MR. EDSALL: Well, it's 180 days, if they ask for extension, they can get two 90 days.

MR. BABCOCK: They already made application, well, they got a application for building permits for this project so once they make application all that time limits go away.

MR. ARGENIO: I'll make a motion for reapproval of the project at 3062 Route 9W requested by Anthony Cappola on April 20, 2005.

MR. SCHLESINGER: Second it. And the plan will show the building smaller because of the deal with Mark Edsall.

MR. PETRO: That's correct. Motion has been made and seconded that the New Windsor Planning Board grant the reapproval to Mr. Cappola for Mr. Cardaropoli (phonetic). Is there any further discussion on this from the board members? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE
MR. SCHLESINGER	AYE
MR. PETRO	AYE

DISCUSSION:

J & R EQUIPMENT (FALANGA/PLOTKIN) SITE PLAN AND SPECIAL PERMIT - SOIL OPERATION ON RIVER ROAD

Mr. Charlie Brown appeared before the board for this proposal.

MR. PETRO: Well, let me save you some time because you really don't need to represent it. The board has come to the conclusion that we have waited quite a period of time for this. We asked I think it was in December I talked to Mr. Falanga myself personally on the phone at my house, I told him he needed a site plan which he agreed to do. I know he was in the process of working on it I believe with a couple different people and it has just taken so long that at this time, I know he's been cited for violation by the Town of New Windsor that this board is going to request that he remove the dirt on the site. I'm going to give you two 30 day extensions to do so. One if you're working diligently within 30 days that the board would say okay for this is from the date of the already existing violation which ends tomorrow, so you don't have to take any action tomorrow because I'll contact the fire department and tell them there will be no further citations for the 30 days. If you're diligent in working to remove the dirt within the 30 days then you get another 30 days without a problem. There's not going to be any interruption as long as it's going out. At that time once the dirt is removed from the site, it's cleaned, the site is put back to its original form and the way it looked, I used to play there when I was a kid, I know what it looked like, you can then take a site plan, it's a permitted use in the zone, if you'd like to appear before this board at your discretion for any time that you want and come up with a site plan we'll entertain it. That's basically it.

MR. BROWN: Well, we do have a little bit of a problem

with that. I hate to be in a situation but I'm going to ask Dominic the legal counsel for my client to come up here, we're between a rock and hard place here.

MR. CORDISCO: Mr. Chairman, my name is Dominic Cordisco, I'm an attorney with Drake Sommers, I work for Jim Loeb and I met with Mr. Falanga at 3 o'clock this afternoon so I have not been working on this project since December of 2004, I've been working on this project for about four hours. And that said, we have been trying very hard to come up to speed on everything that has transpired to date and I know that it's been a long process but I'll cut to the chase, if I may. In February, Mr. Falanga received a letter from the DEC which is, I'd be happy to provide you with a copy, I don't have one with me, but the letter says that he is directed to immediately stop violating Article 27 and then it doesn't really go on to explain what that is. And Mr. Falanga didn't have a copy of the Environmental Conservation Law Article 27 with him, even if he did, it wouldn't have addressed directly the construction and demolition debris operations because those are found in the Regulations promulgated under Article 27 so he did not know this. But when he brought it and showed that to me today I told him that in my opinion what that means is that not only could he not receive additional material into this site but that he could also not take it out unless he gets prior approval from the DEC. What I have recommended to him that we do and I should stop for a moment and say that he's asked me to appear here tonight and I'm happy to represent him tonight, I'm not sure that my firm is going to represent him in the future, that's going to be up to him, so I can't say that I'll be back before this board in a month or so, I would be happy to be back here, but that will remain to be seen, but what I recommended to him as a course of action is not only does he have to satisfy this Town and this board in particular and the building inspector but he also has to satisfy the DEC and we're trying desperately to set

up a meeting as soon as possible with the DEC to hear their concerns and find out what they would like to see happen to this pile in the immediate term because as Mr. Brown has been working, we don't have a site plan before you yet, but it's still Mr. Falanga's goal to have a site plan for this property that's going to be acceptable.

MR. PETRO: Let me hold you up because I think what you're telling me is the Town is requiring that you remove the dirt within 60 days, basically, and you're telling me the DEC will not let you take the dirt off the property.

MR. CORDISCO: I'm not positive of that. My read of the February 9 letter from the DEC is that he was supposed to stop all activity at the site. To me, that means removing material as well and I think that's what Mr. Brown's referring to and we're stuck between a rock and hard place and I think that that's the case but we need to meet with DEC immediately to address that.

MR. PETRO: I'll rephrase my request then, okay, because you can't do the impossible, is that our 60 days will take up any time, if this is true, we don't know that the DEC told you you can't remove it, if that's the true fact that you can't remove it, it would be hard for the Town to make this proposal to you knowing that you can't remove it. So as long as no other dirt is coming in under any circumstances that's our request and demand. If you cannot remove it and you give us documentation to that effect, I need a letter from the DEC that you can't remove it, let's say it's expired, they give you until the 15th of May, then you can start removing it, I will extend the 60 days, those particular days, so that it's not impossible to, we can't ask you the impossible if by law you can't remove it. But keep in mind our intent is that the dirt is gone and that there's nothing there in the end and believe me, if there's a barge that comes in with

dirt there's going to be court appearances, you understand that, right? We're not backing off the position, but we can't ask the impossible either, so if the DEC, I also want to see the letter immediately, probably tomorrow.

MR. CORDISCO: Fair enough.

MR. PETRO: Because I know, Mr. Plotkin, if you can get it to me I'm going to give it right to the Town attorney and we need--how can you let this much time go by and you don't know what the DEC means?

MR. BROWN: We've been working on this storm water prevention pollution plan, that's where we were tonight and that was in response to the DEC's letter. So that was again we're coming here with that and submit that to DEC also and I'm not a lawyer so I didn't know about that angle on it.

MR. PETRO: This story was out in The Record I believe a good couple months ago, now the Town has never been notified by the DEC as far as permit that was required, we were notified about what was in the soil I believe twice, we were never notified about you can or cannot do anything.

MR. CORDISCO: It's a little bit more complicated in the sense that on February 9, the DEC sent that letter out and Mr. Falanga did respond to the DEC.

MR. PETRO: He got the letter, we didn't. I read about it in The Times Herald Record I think the same as most of the people in the room.

MR. CORDISCO: Understood but I don't want to give you the impression that he got this letter and sat on it, he had discussions with the DEC and he applied for what's called a Beneficial Use Determination and that's a, it's a regulation that would exempt this material

from DEC regulations and that application remains to be acted on, he applied for that in February and New Paltz office forwarded it to the Albany office, that's where it's sitting to this day. So that would, if it was approved, that would at least solve his DEC problems, he would still have problems with the Town which he would have to address.

MR. PETRO: Couple things, I lost my train of thought, one is keep in mind that the Town of New Windsor is not prohibiting you from exiting the dirt and removing the dirt, so we have nothing to do with you taking dirt out. But not one boatful can come in, you understand that?

MR. CORDISCO: I understand that. Mr. Falanga, when I met with him today, I asked him if any additional material was coming on site, he told me that as of January, no additional material has been coming on site, he has no plans to bring any material on until he has approval from this board until such time if he was to--

MR. PETRO: Now, the second part of this and I don't know the proper procedure, we'll check with the Town attorney, is that you're telling me that the DEC in fact the whole story you told me is not allowing you to take it out, therefore, we have to work with you a little bit on the timeframe, willing to do that to a certain point, it's not going to be September you're saying we haven't heard back from the DEC. At some point the burden of this is going to be your problem. I don't care how the dirt gets out, we're going to be reasonable, you know, I don't know how long reasonable is, I'll check with our own Town attorney tomorrow maybe, the DEC has to reply to you in 30 days, I don't know what reasonable is, it's not going to be 2007 you're telling me there that we're waiting for the DEC to get back to us. That's not happening.

MR. CORDISCO: I understand it's our burden.

MR. PETRO: If it's within 30 days we'll listen to reason, passed that the fire department is going to be down there with citations.

MR. CORDISCO: I called the DEC today at quarter to 5, I wasn't able to get a live person at that time but tomorrow hopefully I will and be able to set up a meeting so we can discuss exactly what their very short letter meant and what they want to see happen there in the near term.

MR. PETRO: You don't know what the, you don't have any clue what the DEC is telling you in this letter?

MR. CORDISCO: Well, the letter says and I'm quoting cause I remember exactly what it says, it says you are hereby immediately ordered to stop violating Article 27, period. You know, Article 27 is if you're familiar with the Environmental Conservation Law, it deals with all sorts of different issues and then there's two volumes of very large regulations dealing with all sorts of different ways, issues in terms of how you transport waste, how you deal with waste, it's a rather broad thing and that's the only sentence that says it. Does that sentence mean he can't bring anything more on the site? Does it mean he can't bring anything off site? That I think we have to answer that question, we have to answer it now.

MR. BROWN: You can't take 1,000 yards off a site without a mining permit and that would fall under there so--

MR. PETRO: Just once again and I think the way we'll do this so it's clear in everybody's mind, tomorrow morning I have to see the fire inspector, I'm going to give, Myra's going to type up a letter, I'm going to say that you're in compliance now at this time, you

have 30 days to remove the dirt, so we don't come down there and you get a violation for a court appearance. What I will do is I know by what you're telling me instead of the second 30 days, it may be possible we're going to go an additional 30 days to cover the time lapse that you're working with the DEC. But I want you to know after the 90 days it's going to be your burden to get moving, in other words, the DEC's, I'm again I'm repeating myself because it's a very important item, it's not going to go on for years.

MR. EDSALL: Just to be clear for the record you said they were in compliance, they're not in compliance, you're just extending the prosecution of the violation.

MR. PETRO: I misspoke but I think you know what I meant.

MR. CORDISCO: Understood.

MR. PETRO: So you understand what I'm going to do tomorrow?

MR. BROWN: Yes.

MR. PETRO: You're getting the first 30 days segment will start tomorrow, then we'll do another 30 then you're going to let me know when I've read the letter how much time has lapsed that you could not work again, the Town is not stopping you from taking the dirt out, you don't need to talk to us.

MR. CORDISCO: I understand.

MR. BROWN: No more will come in until everything is approved.

MR. BABCOCK: That's one issue that when they go to talk to DEC that they can tell DEC is that the Town wants the dirt out, that's another issue as of this

meeting.

MR. PETRO: You have a time period in which to act, they're being ordered by this board to remove the dirt so it's very simple, there's no play of words, that's what it is.

MR. CORDISCO: I don't want to get ahead of myself but in talking to Mr. Falanga today I will tell you my personal opinion was is that he has a good idea, whether or not it's appropriate at that site it's going to remain for this board to determine, but there is a needs for clean fill, you know, at a lot of construction sites and this material has been tested in Brooklyn before it came up on barge here, he showed me the test results, it was construction and demolition debris that has been, that's exempt from otherwise solid waste regulations. So he's fallen somewhat in a gap here, I think that he's found a market for this material, so I think he has to be commended for that, I think what happened is what we're playing catch-up on now is the fact that he went ahead and did it before he got his approvals.

MR. PETRO: All right, we understand that. Now, listen, I also have the last thing then we're going to close this off is that I said you can reappear before this board if you want to make application in the future once everything is complied with, we're talking about tonight the dirt is, I mean, it's got to be spotless, gone. Keep in mind and this is a very touchy thing, I've always believed a permitted use in the zone is a very important item, but this board can also put restrictions and limitations on any permitted use in any zone, just what we feel is appropriate for the zone and that maybe in this zone and I'm saying it will be, I'm not saying it will be maybe more than five hundred yards of dirt on the zone in this site so just because I'm telling you that you can reappear before this board with an application I don't want you to think that I'm

insinuating that this use will be appropriate.

MR. CORDISCO: Understood.

MR. PETRO: You understand? So there's no misunderstanding?

MR. CORDISCO: I understand.

MR. PETRO: Thank you for appearing.

MR. CORDISCO: Thank you.

MR. PETRO: Any of the members have anything to add before you go?

MR. ARGENIO: Not at this point.

MR. CORDISCO: One last thing, did the board take any action under SEQRA?

MR. PETRO: This is not even an application here.

MR. CORDISCO: Understood.

MR. PETRO: If you bring the letter tomorrow instead of faxing it somebody can actually bring it in and you can pick up your application that you did drop off and plans and checks and might as well take that with you for whatever number of days it's going to be.

MR. BROWN: The order to remove the dirt came from the building department, can we get one from the planning board too?

MR. PETRO: We cannot issue that, it has to come from the building department so the one that's going to be enhanced tomorrow will probably been written up new and you should get a copy of that also.

MR. BROWN: Because that will help with the DEC.

MR. PETRO: Correct, you should have it.

MR. BROWN: Thank you.

MR. CORDISCO: Thank you very much.

MR. PETRO: Motion to adjourn?

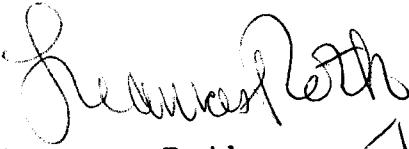
MR. SCHLESINGER: So moved.

MR. ARGENIO: Second it.

ROLL CALL

MR. MASON	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE
MR. SCHLESINGER	AYE
MR. PETRO	AYE

Respectfully Submitted by:


Frances Roth
Stenographer
4/26/05